

Original

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

NOV - 5 1993

FCC - MAIL ROOM

IN THE MATTER OF
IMPLEMENTATION OF SECTIONS 3(N) AND 332
OF THE COMMUNICATIONS ACT
REGULATORY TREATMENT OF MOBILE SERVICES
(GEN. DOCKET NO. 93-252)

COMMENTS

CORPORATE TECHNOLOGY PARTNERS
100 S. ELLSWORTH AVE.
9TH FLOOR
SAN MATEO, CALIFORNIA 94401
(415) 696-3244

JOHN D. LOCKTON, MANAGING PARTNER

NOVEMBER 8, 1993

No. of Copies rec'd 0 + 10
List A B C D E

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

NOV - 5 1993

FCC - MAIL ROOM

IN THE MATTER OF)

IMPLEMENTATION OF SECTIONS)
3(N) AND 332 OF THE)
COMMUNICATIONS ACT)
REGULATORY TREATMENT OF)
MOBILE SERVICES)

GEN DOCKET No. 93-252

TO: THE COMMISSION

**COMMENTS TO
THE NOTICE OF PROPOSED RULE MAKING**

Corporate Technology Partners ("CTP") hereby submits the following comments in response to the Commission's Notice of Proposed Rule Making regarding the Regulatory Treatment of Mobile Services (the "NPRM").

I. PROVIDERS OF PCS COMMERCIAL MOBILE SERVICE SHOULD BE GIVEN CO-CARRIER STATUS TO LOCAL EXCHANGE CARRIERS, AND A CO-CARRIER SETTLEMENT PROCESS SHOULD BE USED RATHER THAN ACCESS FEES TO RATIONALIZE CHARGES BETWEEN PCS OPERATORS AND LOCAL EXCHANGE CARRIERS.

PCS has the capability to provide strong competition to Local Exchange Carriers ("LECs"). The service offering by the PCS operator to home and business will include portable cellular type service but also wide-area cordless telephone type service and ancillary service to fixed sites (so-called "wireless local loop"). In fact, PCS equipment quotations already received by CTP indicate that PCS will be able to provide wide area cordless telephone type service and ancillary wireless local loop service at a far lower infrastructure capital cost per subscriber than new LEC local loop capital cost, and in many cases at a lower infrastructure capital cost per subscriber than depreciated LEC local loop capital cost (so-called "embedded" cost).

What would forestall strong PCS competition to LECs is high access charges. Presently LECs charge cellular radio companies up to more than 20 cents per minute for access.¹ Allowing PCS access fees to be at the levels set in cellular radio would severely restrict the ability of operators to compete with LECs. The problem is particularly acute for small businesses such as CTP. A large corporation winning an MTA may be able to afford to pay access charges at the level paid by cellular carriers. For a small business high access charges would make PCS an untenable business. The PCS operator in its BTA will have to compete against the large PCS businesses in the MTA at the same time as competing against the LEC and established cellular operator, and high access charges would make this impossible.

The solution is to give PCS operators full co-carrier status to LECs. This is consistent with the Commission proposal in the NPRM to require PCS operators to provide equal access,² a proposal CTP supports. Rationalization of charges between the PCS operator and LEC would then be done through a settlement process just as is now done between an RBOC LEC and local independent telephone companies located in the LECs serving area.

To provide co-carrier status the PCS operator should have a federally protected interconnection right, and inconsistent state regulation should be preempted. In requiring a settlements process rather than access fees, state and local regulation should also be preempted. The Commission need not pre-empt rate setting of a settlements process nature by state and local regulators as long as the same settlements process is used by state and local regulators for PCS as is used for independent telcos in the state or locality.

Co-carrier status finds additional support in the situation of a rural telco which wants to participate in PCS. Consider what happens if the rural telco wins a BTA that overlaps but is larger than the rural telco's serving area. Is the rural telco to use a settlements process for PCS calls within its serving area (as it now does) but an access charge approach for PCS calls in BTA areas which extend into the geography of the surrounding LEC? Plainly, this is cumbersome; and it is far better for the rural telco to use a settlement process for all PCS calling, whether within or without its serving area. The small business, such as CTP, serving a BTA should be in the same co-carrier position.

¹Average in larger cities is 10 or 11¢ per minute. It will be noted that the LEC usually has an associated cellular radio operator, and setting of high cellular radio access fees, while a "wash" for the LEC and associated cellular radio operator, provides a competitive advantage over the non-wireline operator.

²NPRM, paragraph 71, page 26.

II. PCS SHOULD NOT BE LIMITED TO COMMERCIAL MOBILE SERVICE.

As CTP believes the PCS operator should be given co-carrier status and be able to operate as a local telephone company, the PCS operator should be allowed as far as possible to provide the full services of a local telephone company. This means both public and private services. Thus, PCS should not be defined exclusively as commercial mobile service, but the PCS operator should be allowed to freely choose what services to provide. This should be without requirement of election between private or commercial service or any other regulatory encumbrance.

III. THE COMMISSION SHOULD NOT REGULATE PCS RATES AT THIS TIME.

As a small business which will be competing with large business MTA winners, and with LECs and local cellular radio operators, CTP is much more concerned about anti-competitive actions by larger competitors than unjustifiably high pricing. Rates should not be regulated by the Commission. However, the Commission should monitor the rate situation to make sure that rate bundling (LEC/IEC services with PCS or cellular with PCS) or other pricing activities don't forestall economic opportunity for small business. Also, CTP suggests the Commission monitor closely the pricing of services from LECs and IECs. Only by continuing fair pricing of LEC and IEC services to small PCS operators will the small business be able to operate PCS effectively.

RECEIVED

NOV 5 1993

FCC - MAIL ROOM

CONCLUSION

For the small business PCS operator to succeed, it should be given the same co-carrier status that has allowed small, independent telephone companies to succeed in America. State and local regulation should be pre-empted by the Commission to the extent necessary to accomplish this objective. Also, to allow the small business PCS operator to compete successfully, it should be allowed to provide the widest possible array of commercial and private services without being restricted by classifying PCS solely as commercial mobile service.

Respectfully submitted,

CORPORATE TECHNOLOGY PARTNERS

By: _____


John D. Lockton
Managing Partner
100 S. Ellsworth Ave.
9th Floor
San Mateo, California 94401
(415) 696-3244

Dated: November 8, 1993